

By: Carona

S.B. No. 1090

A BILL TO BE ENTITLED

AN ACT

relating to the manufacture, distribution, sale, and provision of alcoholic beverages and the regulation of those activities.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 1.04, Alcoholic Beverage Code, is amended by amending Subdivision (15) and adding Subdivisions (26) and (27) to read as follows:

(15) "Beer" means a malt beverage containing one-half of one percent or more of alcohol by volume and not more than four percent of alcohol by weight~~[, and does not include a beverage designated by label or otherwise by a name other than beer]~~.

(26) "Criminal negligence" has the meaning assigned by Section 6.03, Penal Code.

(27) "Intoxicated" has the meaning assigned by Section 49.01, Penal Code.

SECTION 2. Section 1.07(a), Alcoholic Beverage Code, is amended to read as follows:

(a) For purposes of any provision of this code that requires an applicant for a license or permit to be a United States citizen ~~[or Texas citizen]~~, regardless of whether it applies to an individual, a percentage of stockholders of a corporation, or members of a partnership, firm, or association, an individual who is not a United States citizen but who legally resides in the state is treated as a United States citizen ~~[and a citizen of Texas]~~.

1 SECTION 3. Section 5.11, Alcoholic Beverage Code, is
2 amended to read as follows:

3 Sec. 5.11. ADMINISTRATOR. (a) The commission shall appoint
4 an administrator to serve at its will and, subject to its
5 supervision, administer this code. Unless the commission orders
6 otherwise, the administrator shall be manager, secretary, and
7 custodian of all records. The administrator shall devote the
8 administrator's [~~his~~] entire time to the office and shall receive a
9 salary as appropriated by the legislature.

10 (b) The administrator is also known as the executive
11 director.

12 SECTION 4. Section 5.13, Alcoholic Beverage Code, is
13 amended to read as follows:

14 Sec. 5.13. ASSISTANT ADMINISTRATOR. (a) The administrator
15 shall appoint an assistant administrator. The assistant
16 administrator must meet the same qualifications as the
17 administrator. The assistant administrator shall take the
18 constitutional oath of office. In the absence of the administrator,
19 or in case of the administrator's [~~his~~] inability to act, the
20 assistant administrator shall perform the duties conferred on the
21 administrator by law or delegated to the administrator by the
22 commission. If there is a vacancy in the office of administrator,
23 the assistant administrator shall perform the duties of the
24 administrator until an administrator has been appointed by the
25 commission. At other times the assistant administrator [~~he~~] shall
26 perform those duties and have those functions, powers, and
27 authority as may be delegated to the assistant administrator [~~him~~]

1 by the administrator.

2 (b) The assistant administrator is also known as the deputy
3 executive director.

4 SECTION 5. Section 5.15, Alcoholic Beverage Code, is
5 amended to read as follows:

6 Sec. 5.15. ASSISTANT ATTORNEYS GENERAL. The attorney
7 general may ~~[shall]~~ appoint as many as six assistant attorneys
8 general, as the commission determines necessary, to enable the
9 commission to more efficiently enforce this code. The attorney
10 general and the assistant attorneys general shall prosecute all
11 suits requested by the commission and defend all suits against the
12 commission. The commission shall provide the assistant attorneys
13 general with necessary stenographers and office space. The
14 assistant attorneys general shall be paid by the commission out of
15 funds appropriated to it for the administration of this code. Their
16 compensation shall be on the same basis as assistant attorneys
17 general devoting their time to general state business.

18 SECTION 6. Section 5.32, Alcoholic Beverage Code, is
19 amended to read as follows:

20 Sec. 5.32. MAY REQUIRE REPORTS. The commission may require
21 ~~[the filing of reports and other data by]~~ persons engaged in the
22 alcoholic beverage business to provide information, records, or
23 other documents ~~[which]~~ the commission finds necessary to
24 accomplish the purposes of this code.

25 SECTION 7. Section 6.03(1), Alcoholic Beverage Code, is
26 amended to read as follows:

27 (1) Corporations holding a permit or license under Chapters

1 25-34, Chapter 44, Chapters 48-51, Chapters 69-72, or Chapter 74
2 ~~[subject to Subsection (k) of this section]~~ that have substantially
3 similar ownership may merge or consolidate. A fee of \$100 shall be
4 paid to the commission for each licensed or permitted premises that
5 is merged or consolidated into the surviving corporation. The
6 surviving corporation succeeds to all privileges of the prior
7 corporation that held the permits or licenses if the surviving
8 corporation is qualified to hold the permits or licenses under this
9 code. For the purposes of this subsection, corporations have
10 substantially similar ownership if 90 percent or more of the
11 corporations is owned by the same person or persons or by the same
12 corporation or corporations or if the surviving corporation has
13 maintained an ownership interest in the merged or consolidated
14 corporations since the date the original permit or license was
15 issued.

16 SECTION 8. Section 6.05, Alcoholic Beverage Code, is
17 amended to read as follows:

18 Sec. 6.05. CORPORATE LIABILITY. A corporation with an
19 ownership interest in a corporation holding a permit or license
20 under Chapters 25-34, Chapter 44, Chapters 48-51, Chapters 69-72,
21 or Chapter 74 ~~[Section 6.03(k) of this code]~~ and which shares space,
22 employees, business facilities, or services is subject to liability
23 under Chapter 2 ~~[of this code]~~.

24 SECTION 9. Chapter 11, Alcoholic Beverage Code, is amended
25 by adding Section 11.14 to read as follows:

26 Sec. 11.14. AUTOMATED DISPENSING MACHINES. (a) In this
27 section, "payment card" means a credit card, debit card, check

1 card, or other card that is issued to an authorized user to purchase
2 or obtain goods, services, money, or any other thing of value.

3 (b) A permittee authorized to sell wine for on-premises
4 consumption may use an automated machine that is activated by the
5 use of a payment card to dispense the wine. Only an employee of the
6 permittee who is authorized to serve alcoholic beverages may
7 dispense wine from an automated machine authorized by this section.

8 SECTION 10. Section 11.46(a) Alcoholic Beverage Code, is
9 amended to read as follows:

10 (a) The commission or administrator may refuse to issue an
11 original or renewal permit with or without a hearing if the
12 commission or administrator [~~it~~] has reasonable grounds to believe
13 and finds that any of the following circumstances exists:

14 (1) the applicant has been convicted in a court of
15 competent jurisdiction of the violation of any provision of this
16 code during the two years immediately preceding the filing of the
17 applicant's [~~his~~] application;

18 (2) five years have not elapsed since the termination,
19 by pardon or otherwise, of a sentence imposed on the applicant for
20 the conviction of a felony;

21 (3) within the six-month period immediately preceding
22 the applicant's [~~his~~] application the applicant violated or caused
23 to be violated a provision of this code or a rule or regulation of
24 the commission which involves moral turpitude, as distinguished
25 from a technical violation of this code or of the rule;

26 (4) the applicant failed to answer or falsely or
27 incorrectly answered a question in an original or renewal

1 application;

2 (5) the applicant is indebted to the state for any
3 taxes, fees, or payment of penalty imposed by this code or by rule
4 of the commission;

5 (6) the applicant is not of good moral character or the
6 applicant's [~~his~~] reputation for being a peaceable, law-abiding
7 citizen in the community where the applicant [~~he~~] resides is bad;

8 (7) the applicant is a minor;

9 (8) the place or manner in which the applicant may
10 conduct the applicant's [~~his~~] business warrants the refusal of a
11 permit based on the general welfare, health, peace, morals, and
12 safety of the people and on the public sense of decency;

13 (9) the applicant is in the habit of using alcoholic
14 beverages to excess or is physically or mentally incapacitated;

15 (10) the applicant will sell liquor unlawfully in a
16 dry area or in a manner contrary to law or will knowingly permit an
17 agent, servant, or employee to do so;

18 (11) the applicant is not a United States citizen [~~or~~
19 ~~has not been a citizen of Texas for a period of one year immediately~~
20 ~~preceding the filing of his application~~], unless the applicant [~~he~~]
21 was issued a permit or renewal permit on or before September 1,
22 1948, and has at some time been a United States citizen;

23 (12) the applicant does not provide an adequate
24 building available at the address for which the permit is sought
25 before conducting any activity authorized by the permit;

26 (13) the applicant is residentially domiciled with a
27 person whose permit or license has been cancelled for cause within

1 the 12 months immediately preceding the date of the applicant's
2 [~~his~~] present application;

3 (14) the applicant has failed or refused to furnish a
4 true copy of the applicant's [~~his~~] application to the commission's
5 district office in the district in which the premises for which the
6 permit is sought are located; or

7 (15) during the six months immediately preceding the
8 filing of the application the premises for which the permit is
9 sought have been operated, used, or frequented for a purpose or in a
10 manner that is lewd, immoral, or offensive to public decency.

11 SECTION 11. Section 11.61(b), Alcoholic Beverage Code, is
12 amended to read as follows:

13 (b) The commission or administrator may suspend for not more
14 than 60 days or cancel an original or renewal permit if it is found,
15 after notice and hearing, that any of the following is true:

16 (1) the permittee has been finally convicted of a
17 violation of this code;

18 (2) the permittee violated a provision of this code or
19 a rule of the commission;

20 (3) the permittee was finally convicted of a felony
21 while holding an original or renewal permit;

22 (4) the permittee made a false or misleading statement
23 in connection with the permittee's [~~his~~] original or renewal
24 application, either in the formal application itself or in any
25 other written instrument relating to the application submitted to
26 the commission, its officers, or employees;

27 (5) the permittee is indebted to the state for taxes,

1 fees, or payment of penalties imposed by this code, by a rule of the
2 commission, or by Chapter 183, Tax Code;

3 (6) the permittee is not of good moral character or the
4 permittee's [~~his~~] reputation for being a peaceable and law-abiding
5 citizen in the community where the permittee [~~he~~] resides is bad;

6 (7) the place or manner in which the permittee
7 conducts the permittee's [~~his~~] business warrants the cancellation
8 or suspension of the permit based on the general welfare, health,
9 peace, morals, and safety of the people and on the public sense of
10 decency;

11 (8) the permittee is not maintaining an acceptable
12 bond;

13 (9) the permittee maintains a noisy, lewd, disorderly,
14 or unsanitary establishment or has supplied impure or otherwise
15 deleterious beverages;

16 (10) the permittee is insolvent or mentally or
17 physically unable to carry on the management of the permittee's
18 [~~his~~] establishment;

19 (11) the permittee is in the habit of using alcoholic
20 beverages to excess;

21 (12) the permittee knowingly misrepresented to a
22 customer or the public any liquor sold by the permittee [~~him~~];

23 (13) the permittee was intoxicated on the licensed
24 premises;

25 (14) the permittee sold or delivered an alcoholic
26 beverage to an intoxicated person;

27 (15) the permittee possessed on the licensed premises

1 an alcoholic beverage that the permittee [~~he~~] was not authorized
2 [~~by his permit~~] to purchase and sell;

3 (16) a package store or wine only package store
4 permittee transported or shipped liquor, or caused it to be
5 transported or shipped, into a dry state or a dry area within this
6 state;

7 (17) the permittee is residentially domiciled with a
8 person who has a financial interest in an establishment engaged in
9 the business of selling beer at retail, other than a mixed beverage
10 establishment, except as authorized by Section 22.06, 24.05, or
11 102.05 [~~of this code~~];

12 (18) the permittee is residentially domiciled with a
13 person whose permit or license was cancelled for cause within the
14 12-month period preceding the permittee's [~~his~~] own application;

15 (19) the permittee is not a citizen of the United
16 States [~~or has not been a citizen of Texas for a period of one year~~
17 ~~immediately preceding the filing of his application~~], unless the
18 permittee [~~he~~] was issued an original or renewal permit on or before
19 September 1, 1948, and has been a United States citizen at some
20 time;

21 (20) the permittee permitted a person to open a
22 container of alcoholic beverage or possess an open container of
23 alcoholic beverage on the licensed premises unless a mixed beverage
24 permit has been issued for the premises;

25 (21) the permittee failed to promptly report to the
26 commission a breach of the peace occurring on the permittee's
27 licensed premises;

1 (22) the permittee consumed an alcoholic beverage or
2 permitted one to be consumed on the licensed premises at a time when
3 the consumption of alcoholic beverages is prohibited by this code;
4 or

5 (23) the permittee sold, served, or delivered an
6 alcoholic beverage at a time when its sale is prohibited.

7 SECTION 12. Section 11.72, Alcoholic Beverage Code, is
8 amended to read as follows:

9 Sec. 11.72. DISCIPLINE FOR ACTIONS OF AGENT. The
10 commission or administrator may suspend or revoke the permit of a
11 person who is represented by the holder of an agent's permit as
12 described by Section 35.01 or a manufacturer's agent's permit as
13 described by Section 36.01 or otherwise discipline the person based
14 on an act or omission of the holder of an agent's or manufacturer's
15 agent's permit only if an individual employed by the person in a
16 supervisory position:

17 (1) was directly involved in the act or omission of the
18 holder of an agent's or manufacturer's agent's permit;

19 (2) had notice or knowledge of the act or omission; or

20 (3) failed to take reasonable steps to prevent the act
21 or omission.

22 SECTION 13. Section 24.01(c), Alcoholic Beverage Code, is
23 amended to read as follows:

24 (c) The qualifications for a wine only package store permit
25 whose premises is in a wet area permitting the legal sale of wine
26 for off-premises consumption only as determined by an election held
27 under Section 251.19 are the same as the qualifications for a permit

1 issued under Chapter 26 [~~of this code, including the citizenship~~
2 ~~requirements prescribed by Section 6.03~~].

3 SECTION 14. Section 26.01(a), Alcoholic Beverage Code, is
4 amended to read as follows:

5 (a) The holder of a wine and beer retailer's off-premise
6 permit may sell for off-premises consumption only, in unbroken
7 original containers, but not for resale, wine, beer, and malt
8 liquors containing alcohol in excess of one-half of one percent by
9 volume but not more than 17 percent by volume.

10 SECTION 15. Section 28.13(e), Alcoholic Beverage Code, is
11 amended to read as follows:

12 (e) The provisions of Section 109.53 that relate to
13 citizenship [~~residency~~] requirements and compliance with Texas
14 laws of incorporation:

15 (1) do not apply to the holders of a mixed beverage
16 permit under Subsection (a); and

17 (2) do apply to the holder of a mixed beverage permit
18 under Subsection (a-1).

19 SECTION 16. Chapter 35, Alcoholic Beverage Code, is amended
20 by adding Section 35.08 to read as follows:

21 Sec. 35.08. GRACE PERIOD. A person may engage in the
22 activities specified in Section 35.01 for an initial grace period
23 of five days during which the person shall procure an agent's permit
24 from the commission.

25 SECTION 17. Chapter 36, Alcoholic Beverage Code, is amended
26 by adding Section 36.09 to read as follows:

27 Sec. 36.09. GRACE PERIOD. A person may engage in the

1 activities specified in Section 36.01 for an initial grace period
2 of five days during which the person shall procure a manufacturer's
3 agent's permit from the commission.

4 SECTION 18. Section 51.09, Alcoholic Beverage Code, is
5 amended to read as follows:

6 Sec. 51.09. COIN-OPERATED MACHINES PROHIBITED. Except as
7 provided by Section 11.14, nothing [~~Nothing~~] in this chapter shall
8 be construed as authorizing nor may the commission or administrator
9 authorize the sale of any alcoholic beverage from a coin-operated
10 machine or similar device operated by the consumer.

11 SECTION 19. Section 61.38, Alcoholic Beverage Code, is
12 amended to read as follows:

13 Sec. 61.38. NOTICE OF APPLICATION. (a) Every original
14 applicant [~~When an application~~] for a license to manufacture, [~~or~~]
15 distribute, or [~~beer is filed, the county clerk shall post at the~~
16 ~~courthouse door a written notice containing the substance of the~~
17 ~~application and the date set for hearing.~~

18 [~~(b) When an original application to sell beer at retail at~~
19 ~~a location previously licensed is filed, the county clerk shall~~
20 ~~post at the courthouse door a written notice containing the~~
21 ~~substance of the application and the date set for hearing.~~

22 [~~(c) When an original application to~~] sell beer at retail
23 shall give notice of the application by publication at the
24 applicant's own expense in [~~at a location not previously licensed~~
25 ~~is filed, the county clerk shall publish notice for~~] two
26 consecutive issues of [~~in~~] a newspaper of general circulation
27 published in the city or town in which the applicant's place of

1 business is [~~to be~~] located. If no newspaper [~~of general~~
2 ~~circulation~~] is published in that city or town, the notice must
3 [~~shall~~] be published in a newspaper of general circulation
4 published in the county where the applicant's business is [~~to be~~]
5 located. If no newspaper [~~of general circulation~~] is published in
6 that county, the notice must [~~shall~~] be published in a qualified
7 newspaper [~~which is~~] published in the closest neighboring county
8 and [~~is~~] circulated in the county where the applicant's business is
9 located [~~license is sought~~].

10 (b) The notice must [~~shall~~] be printed in 10-point boldface
11 type and must include:

12 (1) [~~shall set forth~~] the type of license applied for;

13 (2) the exact location of the business for which the
14 license is sought;

15 (3) the name of each [~~the~~] owner of the business and,
16 if the business is operated under an assumed name, [or owners,] the
17 trade name together with the name of each owner [~~, if operating under~~
18 ~~an assumed name~~]; and

19 (4) if [~~in~~] the [~~case of a corporate~~] applicant is a
20 corporation, the names and titles of all officers [~~of the~~
21 ~~corporation~~].

22 (c) An applicant for a renewal license is not required to
23 publish notice. [~~At the time the application is filed, the~~
24 ~~applicant shall deposit with the clerk the cost of publishing~~
25 ~~notice, which the clerk shall use to pay for the publication.~~]

26 SECTION 20. Section 61.42(a), Alcoholic Beverage Code, is
27 amended to read as follows:

1 (a) The county judge shall refuse to approve an application
2 for a license as a distributor or retailer if the county judge [~~he~~]
3 has reasonable grounds to believe and finds that:

4 (1) the applicant is a minor;

5 (2) the applicant is indebted to the state for any
6 taxes, fees, or penalties imposed by this code or by rule of the
7 commission;

8 (3) the place or manner in which the applicant for a
9 retail dealer's license may conduct the applicant's [~~his~~] business
10 warrants a refusal of a license based on the general welfare,
11 health, peace, morals, safety, and sense of decency of the people;

12 (4) the applicant is in the habit of using alcoholic
13 beverages to excess or is mentally or physically incompetent;

14 (5) the applicant is not a United States citizen [~~or~~
15 ~~has not been a citizen of Texas for a period of one year immediately~~
16 ~~preceding the filing of his application~~], unless the applicant [~~he~~]
17 was issued an original or renewal license on or before September 1,
18 1948;

19 (6) the applicant was finally convicted of a felony
20 during the five years immediately preceding the filing of the
21 applicant's [~~his~~] application;

22 (7) the applicant is not of good moral character or the
23 applicant's [~~his~~] reputation for being a peaceable, law-abiding
24 citizen in the community where the applicant [~~he~~] resides is bad; or

25 (8) as to a corporation, it is not incorporated under
26 the laws of this state, or at least 51 percent of the corporate
27 stock is not owned at all times by persons who individually are

1 qualified to obtain a license, except that this subdivision does
2 not apply to a holder of any renewal of a distributor's license
3 which was in effect on January 1, 1953, or to an applicant for a beer
4 retailer's on-premise license for a railway car.

5 SECTION 21. Section 102.07(g), Alcoholic Beverage Code, is
6 amended to read as follows:

7 (g) Subsection (a) does not prohibit a permittee covered
8 under Subsection (a) from prearranging or preannouncing a
9 promotional activity otherwise permitted by this code with a
10 retailer about a promotional activity to be held on the retailer's
11 premises. [~~A holder of a wholesaler's or class B wholesaler's permit~~
12 ~~may prearrange a promotional activity only for distilled spirits or~~
13 ~~wine.~~] Notwithstanding any other provision, a permittee may:

- 14 (1) preannounce a promotion to a consumer; or
15 (2) preannounce the purchase of wine, ale, or malt liquor [~~or~~] distilled
16 spirits, ale, or malt liquor to a consumer.

17 SECTION 22. Section 102.15, Alcoholic Beverage Code, is
18 amended to read as follows:

19 Sec. 102.15. MANUFACTURER OR DISTRIBUTOR: PROHIBITED
20 DEALINGS WITH RETAILER. (a) Except as provided by Subsection (b),
21 no [~~No~~] manufacturer or distributor directly or indirectly, or
22 through a subsidiary, affiliate, agent, employee, officer,
23 director, or firm member, may:

- 24 (1) furnish, give, or lend any money or other thing of
25 value to a person engaged or about to be engaged in selling brewery
26 products for on-premises or off-premises consumption, or give the
27 person any money or thing of value for his use, benefit, or relief;

1 or

2 (2) guarantee the repayment of a loan or the
3 fulfillment of a financial obligation of a person engaged in or
4 about to be engaged in selling beer at retail.

5 (b) Subsection (a) does not prohibit a manufacturer or
6 distributor from prearranging or preannouncing a promotional
7 activity otherwise permitted by this code with a retailer about a
8 promotional activity to be held on the retailer's premises.
9 Notwithstanding any other provision, a manufacturer or distributor
10 may:

11 (1) preannounce a promotion to a consumer; or

12 (2) preannounce the purchase of beer to a consumer.

13 SECTION 23. Section 104.04, Alcoholic Beverage Code, is
14 amended to read as follows:

15 Sec. 104.04. DRAFT MALT BEVERAGE [~~BEER~~] DISPENSER: SIGN
16 REQUIRED. No retail dealer may dispense draft beer, malt liquor, or
17 ale unless each faucet or other dispensing apparatus is equipped
18 with a sign clearly indicating the name or brand of the product
19 being dispensed through the faucet or apparatus. The sign must be
20 in full sight of the purchaser, and the letters on it must be
21 legible.

22 SECTION 24. Section 106.09(d), Alcoholic Beverage Code, is
23 amended to read as follows:

24 (d) The fact that a person is 18, 19, or 20 years of age is
25 not a ground for refusal of an original or renewal permit or license
26 issued under Chapter 35, 36, or 73 [~~of this code~~], provided that
27 such a person to whom a permit or license is issued may carry out the

1 activities authorized by those chapters only while in the actual
2 course and scope of the person's employment.

3 SECTION 25. Section 108.01(a), Alcoholic Beverage Code, is
4 amended to read as follows:

5 (a) No manufacturer or distributor directly or indirectly,
6 or through a subsidiary, affiliate, agent, employee, officer,
7 director, or firm member, may publish, disseminate, or cause to be
8 published or disseminated by any medium enumerated in Subsection

9 (b) ~~[of this section]~~ an advertisement of a brewery product that:

10 (1) causes or is reasonably calculated to cause
11 deception of the consumer with respect to the product advertised;

12 (2) directly or by ambiguity, omission, or inference
13 tends to create a misleading impression;

14 (3) is untrue in any particular;

15 (4) ~~[refers to the alcohol content of the product,~~

16 ~~(5)]~~ disparages a competitor's product; or

17 (5) ~~(6)]~~ is obscene or indecent.

18 SECTION 26. Section 108.09, Alcoholic Beverage Code, is
19 amended to read as follows:

20 Sec. 108.09. ~~[CERTAIN]~~ ADVERTISING WHERE PRODUCT MAY BE
21 PURCHASED ~~[BY WINERY]~~. (a) Notwithstanding ~~[Section 102.07 or]~~
22 any other provision of this code, a member of the manufacturing or
23 wholesale tier ~~[winery]~~ may include information in its ~~[the~~
24 ~~winery's]~~ advertising that informs the public of where its ~~[the~~
25 ~~winery's]~~ products may be purchased.

26 (b) A member of the manufacturing tier ~~[winery]~~ may not give
27 compensation to or receive compensation from a licensed or

1 permitted member of the wholesale or retail tier for advertising
2 described by Subsection (a). A member of the wholesale tier may not
3 give compensation to or receive compensation from a licensed or
4 permitted member of the manufacturing or retail tier for
5 advertising described by Subsection (a).

6 SECTION 27. Section 109.53, Alcoholic Beverage Code, is
7 amended to read as follows:

8 Sec. 109.53. CITIZENSHIP OF PERMITTEE; CONTROL OF
9 PREMISES; SUBTERFUGE OWNERSHIP; ETC. [~~No person who has not been~~
10 ~~a citizen of Texas for a period of one year immediately preceding~~
11 ~~the filing of his application therefor shall be eligible to receive~~
12 ~~a permit under this code.~~] No permit except a brewer's permit, and
13 such other licenses and permits as are necessary to the operation of
14 a brewer's permit, shall be issued to a corporation unless the same
15 be incorporated under the laws of the state and unless at least 51
16 percent of the stock of the corporation is owned at all times by
17 citizens [~~who have resided within the state for a period of one year~~
18 ~~and~~] who possess the qualifications required of other applicants
19 for permits; provided, however, that the restrictions contained in
20 the preceding clause shall not apply to domestic or foreign
21 corporations that were engaged in the legal alcoholic beverage
22 business in this state under charter or permit prior to August 24,
23 1935. Partnerships, firms, and associations applying for permits
24 shall be composed wholly of citizens possessing the qualifications
25 above enumerated. Any corporation (except carrier) holding a
26 permit under this code which shall violate any provisions hereof,
27 or any rule or regulation promulgated hereunder, shall be subject

1 to forfeiture of its charter and it shall be the duty of the
2 attorney general, when any such violation is called to the attorney
3 general's [~~his~~] attention, to file a suit for such cancellation in a
4 district court of Travis County. Such provisions of this section as
5 [~~require Texas citizenship or~~] require incorporation in Texas shall
6 not apply to the holders of agent's, industrial, and carrier's
7 permits. No person shall sell, warehouse, store or solicit orders
8 for any liquor in any wet area without first having procured a
9 permit of the class required for such privilege, or consent to the
10 use of or allow the person's [~~his~~] permit to be displayed by or used
11 by any person other than the one to whom the permit was issued. It
12 is the intent of the legislature to prevent subterfuge ownership of
13 or unlawful use of a permit or the premises covered by such permit;
14 and all provisions of this code shall be liberally construed to
15 carry out this intent, and it shall be the duty of the commission or
16 the administrator to provide strict adherence to the general policy
17 of preventing subterfuge ownership and related practices
18 hereinafter declared to constitute unlawful trade practices. No
19 applicant for a package store permit or a renewal thereof shall have
20 authority to designate as "premise" and the commission or
21 administrator shall not approve a lesser area than that
22 specifically defined as "premise" in Section 11.49(a) [~~of this~~
23 ~~code~~]. Every permittee shall have and maintain exclusive occupancy
24 and control of the entire licensed premises in every phase of the
25 storage, distribution, possession, and transportation and sale of
26 all alcoholic beverages purchased, stored or sold on the licensed
27 premises. Any device, scheme or plan which surrenders control of

1 the employees, premises or business of the permittee to persons
2 other than the permittee shall be unlawful. No minor, unless
3 accompanied by the minor's [~~his or her~~] parent, guardian, adult
4 husband or adult wife, or other adult person into whose custody the
5 minor [~~he or she~~] has been committed for the time by some court,
6 shall knowingly be allowed on the premises of the holder of a
7 package store permit. The prohibition against the presence of a
8 minor on the premises of the holder of a package store permit does
9 not apply to the presence on the premises of the holder or a person
10 lawfully employed by the holder. Any package store permittee who
11 shall be injured in the permittee's [~~his~~] business or property by
12 another package store permittee by reason of anything prohibited in
13 this section may institute suit in any district court in the county
14 wherein the violation is alleged to have occurred to require
15 enforcement by injunctive procedures and/or to recover threefold
16 the damages the permittee [~~by him~~] sustained; plus costs of suit
17 including a reasonable attorney's fee. The provisions prohibiting
18 the licensing of only a portion of a building as premise for a
19 package store permit shall not apply to hotels as already defined in
20 this code.

21 SECTION 28. Section 201.41, Alcoholic Beverage Code, is
22 amended to read as follows:

23 Sec. 201.41. FIRST SALE. In this subchapter, "first sale"
24 means:

- 25 (1) the first actual sale of ale or malt liquor by:
26 (A) the holder of a wholesaler's, general class B
27 wholesaler's, or local class B wholesaler's permit to:

1 (i) [~~(A)~~] a permittee authorized to sell to
2 ultimate consumers;

3 (ii) [~~(B)~~] a local distributor permittee;
4 or

5 (iii) [~~(C)~~] a private club registration
6 permittee; or

7 (B) a brewpub licensee to a consumer or a
8 permittee or licensee authorized to buy ale or malt liquor from the
9 brewpub; or

10 (2) the importation of ale or malt liquor under
11 Section 107.07 [~~of this code~~].

12 SECTION 29. Section 203.02, Alcoholic Beverage Code, is
13 amended to read as follows:

14 Sec. 203.02. "FIRST SALE". In this chapter, "first sale"
15 means:

16 (1) the first actual sale of beer:

17 (A) by the holder of a distributor's license or
18 by the holder of a manufacturer's license acting under the
19 authority of Section 62.12 [~~of this code~~], to:

20 (i) [~~(A)~~] a permittee or licensee
21 authorized to sell to ultimate consumers;

22 (ii) [~~(B)~~] a local distributor permittee;
23 or

24 (iii) [~~(C)~~] a private club registration
25 permittee; or

26 (B) by a brewpub licensee to a consumer or a
27 permittee or licensee authorized to buy beer from the brewpub; or

1 (2) the importation of beer under Section 107.07 [~~of~~
2 ~~this code~~].

3 SECTION 30. The following provisions of the Alcoholic
4 Beverage Code are repealed:

5 (1) Section 1.08, as added by Chapter 437 (S.B. 55),
6 Acts of the 73rd Legislature, Regular Session, 1993;

7 (2) Section 1.08, as added by Chapter 934 (H.B. 1445),
8 Acts of the 73rd Legislature, Regular Session, 1993;

9 (3) Sections 6.03(a) and (k);

10 (4) Section 31.05;

11 (5) Section 109.531; and

12 (6) Section 1.07(b).

13 SECTION 31. This Act takes effect September 1, 2013.